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ALEXANDER L. STEVAS,
CLERK

81-29

No.

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1981

MILTON F. KIRSNER,

Appellant,

v.

STATE OF MARYLAND,

Appellee.

– AND –

EARL REALTY, INC.,

Appellant,

v.

STATE OF MARYLAND,

Appellee.

ON APPEAL FROM THE COURT OF APPEALS OF MARYLAND

JURISDICTIONAL STATEMENT

JOHN B. PERNA
215 Constitution Ave., N.E.
Washington, D.C. 20002
(202) 547-1966
Attorney for Appellant.

QUESTIONS PRESENTED

1. Was the denial of a jury trial a violation of due process of law under the Constitution of Maryland, and the United States Constitution?

2. More particulary did the denial of a jury trial by the Criminal Court of Baltimore City although requested by appellants counsel tantamount to being repugnant to the Constitution of the United States as well as the Constitution of Maryland?

PARTIES TO THE PROCEEDING

Milton F. Kirsner, Earl Realty, Inc., vs. The State of Maryland.

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IN THE

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MILTON F. KIRSNER,

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STATE OF MARYLAND,

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– AND –

EARL REALTY, INC.,

Appellant,

v.

STATE OF MARYLAND,

Appellee.

ON APPEAL FROM THE COURT OF APPEALS OF MARYLAND

JURISDICTIONAL STATEMENT

OPINION BELOW

There was no written opinion in the Court of Appeals of Maryland, certiorari was denied by order of the Court of Appeals of Maryland February 9th, 1981.

JURISDICTION

Milton F. Kirsner, and Earl Realty, Inc., appeals from the final judgment of the Court of Appeals of Maryland, dated February 9, 1981. The jurisdiction of this Court is invoked under Title 18 U.S.C. Section 1257, the Fourteenth and Sixth Amendments to the Constitution of the United States, Constitution of Maryland, Declaration of Rights, Article 21, Rights of Accused; indictment; counsel; confrontation; speedy trial; impartial and unanimous jury, and Article 23, Due Process. Notice of appeal to the Court of Appeals of Maryland was filed May 14, 1981 by James H. Norris, Jr., clerk Court of Appeals of Maryland. Petitioners, Milton F. Kirsner and the Earl Realty, Inc., a body corporate by John B. Perna, its attorney, prays that an appeal issue to review the decision of the Court of Appeals of Maryland in the proceedings entitled Milton F. Kirsner v. State of Maryland in the Court of Appeals of Maryland, docket no. 449, September Term, 1980 (D.C.A.N. 38017601-Criminal Court of Baltimore) and Earl Realty, Inc., v. State of Maryland in the Court of Appeals of Maryland docket no. 450, September Term, 1980 (D.C.A.N. 38017602-Criminal Court of Baltimore).

CONSTITUTIONAL PROVISIONS, STATUTES, AND ORDINANCES, RULES AND REGULATIONS, CITATIONS.

1. Constitution of the United States Article III section 2 clause 3. The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be

held in the State where the said crimes shall have been committed, but when not committed within any State, the trail shall be at such place or places as the Congress may by law have directed.

1. Constitution of the United States, 1787; the United States Code, page XLVII, Amendment XIV, due process. Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

2. Constitution of the United States, 1787; the United States Code, Amendment VI. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

2a. Article 5. Common law and statutes of England applicable; trial by jury; property derived under charter granted to Lord Baltimore.

That the Inhabitants of Maryland are entitled to the Common Law of England, and the trial by Jury, according to the course of that Law, and to the benefit of such of the English statutes as existed on the Fourth day of July, seventeen hundred and seventy-six; and which, by experience, have been found applicable to their local and other circumstances, and have been introduced, used and practiced by the Courts of Law or Equity; and also of all Acts of Assembly in force on the first day of June, eighteen hundred and sixty-seven; except such as may have since expired, or may be inconsistent with the provisions of this Constitution; subject, nevertheless, to the revision of, and amendment or repeal by, the Legislature of this State. And the Inhabitants of Maryland are also entitled to all property derived to them from, or under the Charter granted by His Majesty Charles the First to Caecilius Calvert, Baron of Baltimore.

3. Annotated Code of Maryland 1957, volume 9A, 1977 Replacement Volume. Constitution of Maryland, Article 23, Due Process. That no man ought to be taken or imprisoned or disseized of his freehold, liberties or privileges, or outlawed, or exiled, or, in any manner, destroyed, or deprived of his life, liberty or property, but by the judgment of his peers, or by the Law of the Land.

4. Annotated Code of Maryland 1957, volume 9A, 1977 Replacement Volume. Constitution of Maryland, Article 21. Rights of accused; indictment; counsel; confrontation; speedy trial; impartial and unanimous jury. That in all criminal prosecutions, every man hath a right to be informed of the accusation against him, to have a copy of the indictment, or charge, in due time (if required) to prepare for his defence, to be allowed counsel; to be confronted with the witnesses against him; to have process for his witnesses; to examine the witnesses for and against him, to have process for his witnesses; to examine the witnesses for and against him on oath; and to a speedy trial by an impartial jury, without whose unanimous consent he ought not to be found guilty.

5. Annotated Code of Maryland, Courts and Judicial Proceedings (1980 Replacement Volume) (1980 Supplement) Subtitle 4. Review of Decisions of District Court. Section 12-401. Right of Appeal Generally. (e) Right to jury trial. In a criminal appeal that is tried de novo, there is no right to a jury trial unless the offense charged is subject to a penalty of imprisonment or unless there is a constitutional right to a jury trial for that offense. (1980, ch. 298).

6. Annotated Code of Maryland. Courts and Judicial Proceedings (1980 Replacement Volume. Subtitle 4. Review of Decisions of District Court: Section 4. Review of Decisions of District Court: Section 12-401. Right of Appeal generally. (a) Civil and Criminal cases. A party in a civil case or the defendant in a criminal case may appeal from a final judgment entered in the District Court.

(c) Time for appeal- (1) Except as provided in par (2), an appeal shall be taken by filing an order for appeal with

the clerk of the District Court within 30 days from the date of final judgment from which appealed. (2)

(d) De novo and on record appeals.—In a civil case in which the amount in controversy exceeds $500, and in any case in which the parties so agree, an appeal shall be heard on the record made in the District Court. In every other case, including a criminal case in which sentence has been imposed or suspended following a plea of nolo contendere or guilty and an appeal in a municipal infraction case, an appeal shall be tried de novo.

7. Title 28 U.S.C., Section 1257. State Courts; Appeal; Certiorari. Final judgment or decrees rendered by the highest court of the State in which a decision could be had, may be reviewed by the Supreme Court as follows: (2) By appeal, where is drawn in question the validity of a statute of any state on the ground of its being repugnant to the Constitution, treaties or laws of the United States, and the decision is in favor of its validity.

8. An. Code of Md. (1957) Vol. 9B, Rules of Md. 1977, Rep. Vol. Chapter 700. Criminal Causes. Rule 741. Jury Trial – Election. An accused may elect to be tried by jury or by the court. Such election shall be made by the accused in open court when first called upon to plead after he is represented by counsel of record or has waived counsel. If an accused elects to be tried by the court, the State may not elect a jury trial. The court may in its discretion and for good cause shown, at any time prior to the trial permit the accused to change his election. (Uniform Rule 34; amended June 28, 1971, effective Sept. 1, 1971.)

STATEMENT OF THE CASE

The two captioned cases were heard in the Criminal Court of Baltimore City. There was a motion for a jury trial in the Criminal Court of Baltimore City. The motion was denied among other items. The two captioned cases were heard at the same time in the Criminal Court of Baltimore City. Both cases were then appealed to the Court of Appeals of Maryland, and the writ of certiorari was denied. The cases were docketed in the Court of Appeals of Maryland as petition docket no. 450, September Term, 1980 (D.C.A.N. 38017602–Criminal Court of Baltimore) and petition docket no. 449, September Term, 1980 (D.C.A.N. 38017601–Criminal Court of Baltimore). Both cases involved rehabilitation of vacant property in the City of Baltimore, Maryland. Denial of a motion for a jury trial was made prior to a hearing of both cases in the Criminal Court of Baltimore City from a conviction in the District Court of Baltimore City Maryland. A fine of $300.00 was rendered for a one count violation in both cases. This fine was a misdeameanor under an ordinance of the City of Baltimore, Maryland.

THE QUESTION IS SUBSTANTIAL

There was a motion for a jury trial in the Criminal Court of Baltimore City. The motion was denied among other items. The case was appealed to the Court of Appeals of Maryland, and it was denied on February 9, 1981. There was an answer filed by the Attorney General of the State of Maryland in the Court of Appeals of Maryland. It is submitted that the appellants Milton F. Kirsner, and the Earl Realty, Inc., have an absolute right of appeal to the Supreme Court of the United States by virture of title 18, Judiciary and Judicial Procedure,

section 1257, State courts; appeal; certiorari, United States Code, wherein it is stated: "Final judgements or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court as follows: (2) By appeal, where is drawn in question the validity of a statute of any state on the ground of its being repugnant to the Constitution, treaties or laws of the United States, and the decision is in favor of its validity."

In the Annotated Code of Maryland (1974) Courts and Judicial Proceedings, (1980, Supplement). It is stated as follows: "Subtitle 4, section 12-401. Right of Appeal generally. (e) Right to jury trial. . . . In a criminal appeal that is tried de novo, there is no right to a jury trial unless the offense charged is subject to a penalty of imprisonment or unless there is a constitutional right to a jury trial for the offense."

It appears to the appellants' that the Circuit Criminal Court of Baltimore City should have granted the motion for a jury trial upon appeal from the District Court of Baltimore City. The following clause in the statute is quoted: "Unless there is a constitutional right to a jury trial for that offense," it appears to be a statement where the ordinary prudent person would direct their attention to the constitution of the United States as well as the constitution of Maryland. The Constitution of the United States, Amendment VI, and Amendment XIV, as well as the Constitution of Maryland Declaration of Rights, Articles 21 and 23 says a defendant is entitled to an impartial jury trial and there is no exception or qualification made. Had the legislature of the State of Maryland meant some other right to a jury trial for a particular offense the legislature of the State of Maryland should have so

stated. The appellants have a right of appeal pursuant to title 28 United States Code, Judicial Procedure, section 1257 (2).

There is an inconsistency in the present enacted law of the Annotated Code of Maryland 1974, Courts and Judicial Proceedings, (1980 Supplement) Sub. title 4, section 12-401 Right of Appeal generally (e) Right to Jury Trial. The newly enacted law attempts to limit the jury trial by resorting to the Constitution of the United States; however, the Constitution of the United States sustains jury trial without exception; therefore this statute section 12-401 of the Maryland Annotated Code appears to be unconstitutional, and is repugnant to the Constitution of the United States its laws as well as the Constitution of Maryland, and Title 28 U.S.C. section 1257 State Courts; Appeal, the Fourteenth and Sixth Amendments to the Constitution of the United States, Constitution of Maryland, Declaration of Rights, Article 21, Right of Accused; indictment; counsel; confrontation; speedy trial; impartial and unanimous jury, and Article 23, Due Process.

The appellants were fined $300 in each case on one count each. The fine does not conform to Article 5 (1950 edition) of the Baltimore City Code concerning building regulations. The Baltimore City building regulations, article 5 section 192—Penalties for violations of Code provide as following. 1921. Penalties for all Violations. Any and every person, firm or corporation who commits a violation of any of the provisions of this Code, shall be guilty of a misdemeanor, and, upon conviction thereof in any court of competent jurisdiction, shall be fined not less than $5.00 nor more than $100 or sentenced to not more than six months in jail; provided, however, that no criminal action shall be instituted by the Commissioner

against any person for any such alleged violations until the Commissioner has given the alleged offender notice, as provided herein of the alleged violations and allowed the alleged offender a reasonable time in which to correct any such violations. Every such person shall be deemed guilty of a separate offense for each and every day, or any part thereof, that any such violation continues; provided however, that as to any land, building structure or other object as to which a certificate shall have been issued pursuant to the provisions of Chapter 15 of this Code, no person, shall be guilty of a misdemeanor as aforesaid unless notice of such violation shall have been given to such person in accordance with the provisions of this Code within a period of one year from the date such person, shall finally have divested himself or itself of title to said land, building or other object, for a valuable consideration in money or in money's worth and in good faith.

CONCLUSION

It is evident from the foregoing statements that the appellate criminal court of Baltimore City in imposing the sentence in these cases could have imposed a sentence of six-months imprisonment pursuant to the 1950 Building Code and Ordinances of Baltimore City, penalties and violations. The appellate criminal court of Baltimore City should not have denied the jury trial when the motion for a jury trial was made by the defendants. The State of Maryland Constitution guarantees a right to trial by jury.

The Maryland statute limiting jury trial states in sec. 12-401. Right of Appeal, generally. (e) Right to jury trial.

> "In a criminal appeal that is tried do novo, there is no right to a jury trial unless the offense charged is subject to a penalty of imprisonment or unless there is a constitutional right to a jury trial for that offense." An. Code of Md. Courts and Procedure (1980 Repl. vol. & 1980 Supp.)

The verdict of the appellate criminal court of Baltimore City should be reversed because sec. 12-401(e) states that "unless there is a constitutional right to a jury trial for that offense," there is no right to a jury trial. This Maryland Code Statute sec. 12-401(e) clause is repugnant to the Constitution of the United States because the United States Constitution does not place any limitations on the trial by jury.

For these reasons appellants did not get due process of law and the decisions of the Court of Appeals of Maryland should be reversed.

Respectfully submitted,

John B. Perna,
215 Constitution Ave., N.W.,
Washington, D.C. 20002
(202) 547-1966

Attorney for Appellant.

CERTIFICATION OF SERVICE

I HEREBY CERTIFY that on this 2nd day of July, 1981, a copy of the foregoing jurisdictional statement in the above captioned case was mailed, postage prepaid to Stephen H. Sachs, Attorney General of Maryland, and Deborah K. Handel, Assistant Attorney General, One South Calvert Building, Baltimore, Maryland 20202, telephone (301) 659-4022, Attorneys for appellee.

John B. Perna
215 Constitution Ave., N.W.
Washington, D.C. 20002
(202) 547-1966

Attorney for Appellant.

APPENDIX

APPENDIX

1. Order, in the Court of Appeals of Maryland, Petition Docket No. 449, September Term, 1980 (D.C.A. Case No. 3817601, Docket 1980–Criminal Court of Baltimore. Judgment November 5, 1980, signed February 9, 1981 by Robert C. Murphy, Chief Judge.

2. Order, in the Court of Appeals of Maryland, Petition Docket No. 450, September Term, 1980 (D.C.A. No. 3817602–Criminal Court of Baltimore, signed February 9th, 1981 by Robert C. Murphy, Chief Judge.

MILTON F. KIRSNER	*	IN THE COURT
	*	OF APPEALS
v.	*	OF MARYLAND
	*	
STATE OF MARYLAND	*	Petition Docket No. 449
	*	
	*	September Term, 1980
	*	
	*	(D.C.A. Case No.
	*	38017601, Docket 1980–
	*	Criminal Court of
	*	Baltimore Judgment
	*	November 5, 1980)
	*	

* * * * *

ORDER

Upon consideration of the writ of certiorari to the Criminal Court of Baltimore and the answer filed thereto, in the above entitled case, its

ORDERED, by the Court of Appeals of Maryland, that the petition be, and it is hereby, denied as there has been no showing that review by certiorari is desirable and in the public interest.

/s/ Robert C. Murphy

Chief Judge

February 9, 1981.

EARL REALTY, INC.	*	IN THE COURT
	*	OF APPEALS
v.	*	OF MARYLAND
	*	
STATE OF MARYLAND	*	Petition Docket No. 450
	*	
	*	September Term, 1980
	*	
	*	(D.C.A. No. 38017602–
	*	Criminal Court of
	*	Baltimore)
	*	

* * * * *

ORDER

Upon consideration of the petition for a writ of certiorari to the Criminal Court of Baltimore and the answer filed thereto, in the above entitled case, it is

ORDERED, by the Court of Appeals of Maryland, that the petition be, and it is hereby, denied as there has been no showing that review by certiorari is desirable and in the public interest.

/s/ Robert C. Murphy

Chief Judge

Date: February 9th, 1981.

SECTION 192–PENALTIES FOR VIOLATIONS OF CODE

Ord. 578 (1941-42), sec. 192.
Ord. 1263 (1950-51), sec. 192.

1921. Penalties for all Vioations. Any and every person, firm or corporation who commits a violation of any of the provisions of this Code, shall be guilty of a misdemeanor, and, upon conviction thereof in any court of competent jurisdiction, shall be fined not less than $5.00 nor more than $100 or sentenced to not more than six months in jail; provided, however, that no criminal action shall be instituted by the Commissioner against any person for any such alleged violations until the Commissioner has been given the alleged offender notice, as provided herein, of the alleged violations and allowed the alleged offender a reasonable time in which to correct any such violations. Every such person shall be deemed guilty of a separate offense for each and every day, or any part thereof, that any such violation continues; provided, however, that as to any land, building,

structure or other object as to which a certificate shall have been issued pursuant to the provisions of Chapter 15 of this Code, no person, shall be guilty of a misdemeanor as aforesaid unless notice of such violation shall have been given to such person, in accordance with the provisions of this Code within a period of one year from the date such person, shall finally have divested himself or itself of title to said land, building or other object, for a valuable consideration in money or in money's worth and in good faith.

CHAPTER 25

VACANT AND UNSAFE BUILDINGS

SECTION 250—GENERAL REGULATIONS FOR VACANT AND UNSAFE BUILDINGS

2500. Scope. Vacant buildings shall include all buildings or other structures without occupancy and from which building or other structure furniture, portable equipment and merchandise has been removed.

Unsafe buildings shall include all buildings and other structures in whole or in part, existing or in the course of construction, which have become potentially unsafe but not imminently dangerous.

Dangerous buildings shall include all buildings and other structures in whole or in part existing or in the course of construction which have become so unsafe as to be a menace to life or property.

Wrecked buildings shall include all buildings and other structures in whole or in part existing or in course of construction which have been partially dismantled or

wholly or partially destroyed or damaged to such an extent that they are uninhabitable.

Dangerous conditions shall include all conditions in or upon all buildings or other structures, or premises which create a fire hazard or a menace to life or health.

2501. Procedure. Every unsafe or dangerous building or other structure, or dangerous conditions reported to, or otherwise brought to the attention of, or otherwise brought to the attention of, the Commissioner, shall be immediately inspected and acted on as required in Part 1.

2507. Unsafe Conditions to be Rectified. All unsafe or dangerous buildings or other structures, and all dangerous conditions located in or on any premises shall be immediately made safe or eliminated by the owner of any such buildings or other structures or premises upon the receipt of notice to do so from the Commissioner.

SECTION 251—REQUIREMENTS FOR VACANT BUILDINGS

2511. Classification. Vacant buildings shall be divided into three classes as follows:

a. Buildings temporarily unoccupied.
b. Buildings partially vacated.
c. Buildings completely vacated.

2512. Buildings Temporarily Unoccupied shall include all buildings from which the occupants have left for a short or long period without removing any appliance or equipment and from which no services have been disconnected.

The owner of every such building temporarily vacated shall keep all doors, windows and other openings within 8 feet of the ground or which may be readily accessible, locked or otherwise securely fastened.

2513. Buildings Partially Vacated shall include every unoccupied building from which equipment and appliances have been removed but from which no services have been disconnected.

The owner of every building partially vacated shall keep locked or otherwise securely fastened every door, window or other opening and all windows within 20 feet of the ground or which may be readily accessible shall be completely covered with a sheet metal covering of not less than 30 gage or with such other substantial material as shall be approved by the Chief Engineer of the Fire Department.

2514. Buildings Completely Vacated shall include all buildings or other structures from which all appliances and equipment have been removed and from which all services have been disconnected destroyed or removed, and the owner of which either cannot be located or will not protect such building or other structure against trespassers.

All such buildings or other structures shall be protected as required of buildings partially vacated in Paragraph 2513 and all such buildings or other structures which are not so protected or which are unsafe or dangerous shall be considered as unsafe or dangerous buildings and the Commissioner shall proceed in accordance with the provisions of this Code relative to unsafe or dangerous buildings or other structures.

2515. Ninety-day Limit. No building shall remain partially or completely vacated as defined in Paragraph 2513 and 2514 whether or not boarded up as required in said paragraphs, for a period longer than ninety (90) days. Immediately after the expiration of said ninety (90) day period the owner, agent or person in control of said property shall either make the building fit for human habitation or fit for commercial or other authorized uses or demolish the building. A building shall be considered fit for human habitation or fit for commercial or other authorized uses when it complies with the provisions of all applicable codes and ordinances. If said work is not commenced by the owner, agent or person in control of said property as aforesaid the Commissioner shall send an appropriate notice ordering the owner, agent or person in control of said property to begin work within ten (10) days after the date of the notice. If the owner, agent or person in control of any such building fails to comply with the notice of the Commissioner within the time allowed, the Commissioner is hereby authorized and empowered either to condomn such building and he shall proceed in accordance with, and as provided in Section 185 or to have a receiver appointed pursuan to Section 186."

(Ord. 774, 1961; Ord. 1219, 1971.)

In The

SUPREME COURT OF THE UNITED STATES

No.

Milton F. Kirsner,

Petitioner,

v.

State of Maryland,

Respondent.

Earl Realty, Inc.,

Petitioner,

v.

State of Maryland,

Respondent.

APPLICATION FOR EXTENSION OF TIME FOR DOCKETING THE ABOVE CAPTIONED CASE FOR A PERIOD NOT EXCEEDING 60 DAYS.

JURISDICTION

The jurisdiction of this Court is invoked under Title 18 U.S.C. Section 1257, the Fourteenth and Sixth Amendments to the Constitution of the United States, Constitution of Maryland, Declaration of Rights, Article 23, Due Process.

STATEMENT OF THE CASE

The two captioned cases were heard in the Criminal Court of Baltimore City. There was a motion for a jury

trial in the Criminal Court of Baltimore City. The motion was denied among other items. The two captioned cases were heard at the same time, in the Criminal Court of Baltimore City. Both cases were then appealed to the Court of Appeals of Maryland, and the writ of certiorari was denied. The cases were docketed in the Court of Appeals of Maryland as petition docket no. 450, September Term, 1980 (D.C.A. N. 38017602–Criminal Court of Baltimore) and petition docket no. 449, September Term, 1980 (D.C.A. N. 38017601–Criminal Court of Baltimore). Both cases involved rehabilitation of vacant property in the City of Baltimore, Maryland. Denial of motion for a jury trial was made prior to a hearing of both cases in the Criminal Court of Baltimore City from a conviction in the District Court of Baltimore City, Maryland. A fine of $300.00 was rendered for a one count violation in both cases. This fine was a misdemeanor under an ordance of the City of Baltimore, Maryland.

OPINION BELOW

There was no written opinion in the Court of Appeals of Maryland, certiorari was denied by order of the Court of Appeals of Maryland February 9th, 1981.

QUESTION PRESENTED

Was the denial of a jury trial a violation of due process of law under the Constitution of Maryland, and the United States Constitution?

REASONS WHY THE GRANTING OF EXTENTION OF TIME IS THOUGHT JUSTIFIED

The officer of the corporation in this case has been very busy with other litigation and matters. The present counsel in this case has been consulted within the last 24 hours, other counsel has been retained in the lower court proceedings in the above captioned case.

John B. Perna,
215 Constitution Ave., N.E.
Washington, D.C.
547-1966
Attorney for Petitioner.

CERTIFICATION OF SERVICE

I HEREBY CERTIFY that on this 11th day of May, 1981, copies of the foregoing application for extention of time in the above caption case were mailed, postage prepaid, to Stephen H. Sachs, Attorney General of Maryland, and Deborah K. Handel, Assistant Attorney General, One South Calvert Building, Baltimore, Maryland 21202, telephone 659-4022, Attorneys for respondent.

[Filed May 14, 1981]

James H. Norris, Jr., Clerk, Court of Appeals of Maryland

In The

SUPREME COURT OF THE UNITED STATES

No.

Milton F. Kirsner,

Petitioner,

v.

State of Maryland,

Respondent.

Earl Realty, Inc.,

Petitioner,

v.

State of Maryland,

Respondent.

NOTICE OF APPEAL TO THE COURT OF APPEALS OF MARYLAND

TO THE HONORABLE, THE JUDGE OF SAID COURT:

Petitioners, Milton F. Kirsner and the Earl Realty, Inc., a body corporate by John B. Pema, its attorney, prays that an appeal issue to review the decision of the Court of Appeals of Maryland in the proceedings entitled Milton F. Kirsner v. State of Maryland in the Court of Appeals of Maryland, docket no. 449,

September Term, 1980 (D.C.A. N. 38017601—Criminal Court of Baltimore) and Earl Realty, Inc., v. State of Maryland in the Court of Appeals of Maryland docket no. 450, September Term, 1980 (D.C.A. N. 38017602—Criminal Court of Baltimore).

John B. Perna, Attorney
for Petitioners.
215 Constitution Ave., N.E.
Washington, D.C. 20002
(202) 547-1966

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of May, 1981, copy of the notice of appeal in the above caption case was mailed, postage prepaid, to Stephen H. Sachs, Attorney General of Maryland, and Deborah K. Handel Assistant Attorney General, One South Calvert Building, Baltimore, Maryland 21202, telephone 659-4022, Attorneys for respondent.

In The

SUPREME COURT OF THE UNITED STATES

No. A-941

Milton F. Kirsner,

Appellant,

v.

Maryland

and

Earl Realty, Inc.,

Appellant,

v.

Maryland

ORDER

UPON CONSIDERATION of the application of counsel for the appellants,

IT IS ORDERED that the time for docketing an appeal in the above-entitled cases be, and the same is hereby, extended to and including July 10 , 1981.

/s/ Warren E. Burger
Chief Justice of the United States

Dated this 20th day of May, 1981.